

Commonwealth of Massachusetts

The Trial Court

Division

Probate and Family Court Department

Docket No.

Findings Relating to the Issuance of A Custody Order to the Non-Abusive Parent

_____, Plaintiff

v.

_____, Defendant

At a Probate and Family Court held at _____, on _____,

_____ Justice, presided.

All persons interested having been notified in accordance with the law: — Upon an ex-parte motion:

After Hearing the Court finds that:

☐

A pattern of abuse has occurred. The Court finds that the plaintiff — defendant has on more than one occasion engaged in one or more of the following acts (check all boxes that apply):

☐
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☐

attempted to cause bodily injury ¹ to other parent — child;
caused bodily injury to other parent — child;
placed other parent — child in reasonable fear of imminent bodily injury.

This behavior has resulted in the Court determining that a pattern of abuse has occurred which is contrary to the child's best interest.

☐

A serious incident of abuse has occurred. The Court finds that the plaintiff — defendant has engaged in one or more of the following acts (check all boxes that apply):

☐
☐
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☐

attempted to cause serious bodily injury ² to other parent — child;
caused serious bodily injury to other parent — child;
placed other parent — child in reasonable fear of imminent serious bodily injury; or
caused the other parent — child to engage involuntarily in sexual relations by force, threat or duress.

This behavior has resulted in the Court determining that a serious incident of abuse has occurred which is contrary to the child's best interest.

¹ "Bodily Injury" and "serious bodily injury" are defined for purposes of these findings by G.L. c. 265, §13K. Bodily injury is "that which causes substantial impairment of the physical condition, including, but not limited to, any burn, fracture of any bone, subdural hematoma, injury to any internal organ, or any injury which occurs as the result of repeated harm to any bodily function or organ, including human skin..."

² "Serious bodily injury" is defined as "bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, or substantial risk of death."

A rebuttable presumption has been created that it is not in the best interest of the child to be placed in the sole custody, shared legal custody, or shared physical custody with the abusive parent. The Court finds, by a preponderance of the evidence, that credible evidence has not been presented to rebut this presumption.

This pattern or serious incident of abuse has had the following effects on the child:

- ☐ the child is afraid of the abusive parent;
- ☐ the child is having problems with his or her performance at school;
- ☐ the child has exhibited regressive behavior;
- ☐ the child has problems with peer — family — relationships;
- ☐ the child has been experiencing nightmares and sleep disturbances;
- ☐ the child has frightening memories from witnessing the abuse;
- ☐ the child exhibited extreme distress at the time of the incident from witnessing the abuse;
- ☐ the child has exhibited hostile or aggressive behavior toward others;
- ☐ other — specify

The Court finds that the custody order to the non-abusive parent is in furtherance of the child's best interests and provides for the safety and well-being of the child.

Date

Justice